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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/677,889	10/01/2003	Shih-Ta Liu	DF-02800	9706

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EXAMINER

DEMILLE, DANTON D

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 08/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/677,889	Applicant(s) LIU, SHIH-TA	
	Examiner Danton DeMille	Art Unit 3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12, 14-19, 21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 14-19, 21 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claim 21 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 21 states that the filling medium is a liquid however the filling medium is not part of the claimed combination and therefore does not further limit the claimed invention. Claim 1 merely recites a reservoir that is for providing a filling medium.

Claim Rejections - 35 USC § 103

Claims 1-12, 14-19, 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Howard in view of Liu '293.

Howard teaches a vacuum generator 100, a reservoir 304 that can be filled with oxygen therefore is "a reservoir for providing a filling medium stored therein", a shield 40, a first tube 106 communicating with the shield and the vacuum generator and a second tube 122 communicating with the shield and the reservoir. Howard may not teach including a vibrating mechanism disposed on the shield however Liu teaches such a convention. It would have been obvious to one of ordinary skill in the art to modify Howard to include a vibrating mechanism on the shield as taught by Liu to provide a massaging function on the body to enhance the curative effects of the vacuum therapy.

Regarding claim 6, it would have been obvious to one of ordinary skill in the art to modify Howard to provide a number of vacuum generators for they would perform the identical function of providing a suction force. Furthermore, it has been held that mere duplication of the

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essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 14 above, and further in view of Heger.

Howard teaches a cup or shield for applying suction therapy to a desired location of the body and including adding oxygen to the selected area to increase the healing effect. Heger teaches another suction cup or shield for applying suction therapy to a desired location of the body and including adding liquid to the selected area to increase the healing effect. The liquid is a medicinal preparation to help the healing process. It would have been obvious to one of ordinary skill in the art to further modify Howard to include adding a liquid medium to the cup as taught by Heger to help with the healing process.

Response to Arguments

Applicant's arguments filed 22 May 2006 have been fully considered but they are not persuasive.

It is not clear how much weight can be given the arguments that Howard does not teach storing a liquid in a reservoir since there is nothing claimed to require such a function. All that is claimed is "a reservoir for providing a filling medium stored therein". Oxygen is a filling medium and therefore anticipates the claims.

Regarding applicant's arguments that the combination of Howard with the vibrator of Liu is impermissible hindsight, the examiner respectfully disagrees. The examiner feels that it is a *prima facie* case of obviousness. Liu teaches the motivation for providing a vibration mechanism on a sucking device. Liu teaches in the last line of the abstract that the can body or

shield “is fitted with a vibrator to produce a vibrating and massaging function on the can body, to enhance the curative effects of traditional Chinese can sucking therapy.” Liu also teaches that this Chinese can sucking therapy is also referred to as “vacuum blood purification cure” in Japan, “blood cure” in Russia, or “cup art” in France and therefore, it is widely employed in the whole world (column 1, lines 20-24). The method of using a cup shaped shield for placing on selected portions of the body and applying a suction within the cup is well known the world over for increasing blood circulation. “the regional suction force applied in a can sucking therapy results in passive hyperemia which helps to improve the nutritional conditions and blood circulation of a tissue to stimulate metabolism. Meanwhile, the can sucking process will stimulate nerve systems which reflect their reactions to the cerebral cortex, augment excitement, and contribute to the cure of disorders” (column 1, lines 25-31). No matter what you want to call it this process of applying suction to the body using a cup shaped shield is well known the world over. Howard is performing the same therapy.

Howard teaches, “a vacuum pressure is cyclically applied to the selected portion of the human body to stimulate circulation of blood through the selected portion” (column 1, lines 19-21). While Howard may teach another added benefit to vacuum therapy to remove fat in the selected area, it cannot be ignored that Howard teaches the basic purpose of providing vacuum therapy for increasing blood flow to the affected area “and that selected portions of the body may be enhanced and /or healed by applying a partial vacuum pressure to the selected portion of the human body” (column 1, lines 57-60). Howard recognizes the basic function of increasing the blood circulation of a selected portion to increase the healing process of such things as sores. Howard also teaches that his invention is a much less invasive procedure for treating other

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ailments such as sores that are typically remedied using procedures that are invasive, expensive, of questionable value, and/or leave scars (column 1, lines 41-46). The Howard device “can enhance or therapeutically heal other portions of the body without expensive medicine, surgery, or chiropractic or massage therapy (column 1, lines 51-53).

Therefore, adding a vibration mechanism to the sucking shield of Howard would only enhance the method of increasing blood circulation and including the added benefit of massage therapy of which is one of the conventional methods of treatment. Liu teaches the conventional added benefit of combining vacuum therapy with vibration therapy. They both deal in the art of treating a selected portion of the body with a suction cup and Liu teaches the adding a vibration mechanism to the suction cup to enhance the curative effect of suction therapy.

Therefore a *prima facie* case of obviousness has been proven because there is suggestion and motivation for adding the vibrator to the suction cup of Howard because Liu teaches adding a vibrator enhances the curative effect by combining vibration therapy and massage therapy to the suction therapy. Liu teaches the success of enhancing the curative affects of suction therapy with the vibrator. Howard and Liu teach all of the positively claimed structure recited.

Moreover the art of adding a liquid filling medium to the process of suction therapy is not new as exemplified by Heger.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

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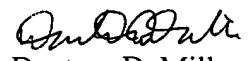
MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Danton DeMille whose telephone number is (571) 272-4974. The examiner can normally be reached on M-F from 8:30 to 6:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson, can be reached on (571) 272-4887. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

6 August 2006


Danton DeMille
Primary Examiner
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